IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

THURSDAY, THE 21ST DECEMBER 2006 / 30TH AGRAHAYANA 1928

WP(C).No. 34257 of 2006(C)

CMA.152/2005 of I ADDL. DISTRICT COURT, TRIVANDRUM
OS.187/2005 of I ADDL.SUB COURT,TRIVANDRUM

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PETITIONER:

V.RAMAKRISHNA PILLAI,
S/O.VELAYUDHAN PILLAI,
MANKATTUPOYKAYIL VEEDU,
KATTELA, SREEKARIYAM P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.G.S.REGHUNATH

RESPONDENTS:

CHANDRIKA, D/O.LALITHAMMA,
JAYAVILASOM, VENKODE P.O.,
THIRUVANANTHAPURAM-28.

BY //

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C) .NO.34257 OF 2006

Dated 21st December 2006

JUDGMENT

Petitioner is plaintiff and respondent the defendant in O.S.187/2005 on the file of Additional Sub court, Thiruvananthapuram. Petitioner the father filed the suit against respondent the daughter seeking a decree to set aside the settlement deed executed by him in favour of his daughter and permanent prohibitory injunction restraining first defendant from alienating or transferring the property. As per order dated 14/11/2005 in I.A.3478/05 learned Sub Judge granted an order of temporary injunction which was challenged in C.M.A.152/2005. As per Ext.P8 order learned Additional District Judge, Thiruvananthapuram set aside the order of learned Munsiff and vacated the order of injunction. It is challenged in this petition filed under Article 227 of Constitution of India.

2. Learned counsel appearing for petitioner was heard.

3. Learned counsel appearing for petitioner argued that under Ext.P8 order learned District Judge has virtually decided the suit and learned Munsiff may be directed to dispose the suit untrammelled by any observation in Ext.P8. Ext.P8 order was passed by Additional District Judge appeal against an order in an interlocutory application. Finding in interlocutory order cannot bind the court while disposing the suit on merit. Learned Munsiff is directed to dispose of O.S.187/2005 untrammelled by any observation in Ext.P8 but only on the evidence on record.

Writ petition is disposed of.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.